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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,751

08/21/2006

Stephen Brown

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EXAMINER

RUNNING, RACHEL A

ART UNIT

PAPER NUMBER

3732

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,751	Applicant(s) BROWN, STEPHEN	
	Examiner RACHEL A. RUNNING	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/21/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 5 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim since a multiple dependant claim can not depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5 and 6 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 2, line 2, "the adjacent regions" lacks a prior antecedent.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

6. Claims 7-9, 10/8, and 10/9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gazaway (US 6,061,912).

Regarding claim 7, Gazaway discloses a tool (10) comprising a clamp means for clamping together in use, in abutting adjacent end regions of the lock of hair and a

means for directing electromagnetic radiation at the abutting region (see Figure 1; column 7, lines 48-60). Regarding claim 8, the tool includes two jaw members (14a, 14b) mounted for relative hinging movement (see Figure 1). Regarding claim 9, at least one of the facing surfaces of the jaw members includes a groove (44) or profiled guide region for isolating a lock of hair (see Figure 6a; column 5, lines 1-10). Regarding claims 10/8 and 10/9, the device includes a switch the switch being disposed to be closed when the jaw member are hinged towards each other (column 7, lines 20-25).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 3, 4/1, 4/2/1, 4/3/2/1, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrington (US 5,107,867) in view of Mack et al. (US 4,602,143).

Regarding claim 1, Barrington discloses a method of joining a hairpiece (10) to a lock of hair (12) wherein the method comprises bonding the hairpiece to the lock using an adhesive (16) (see Figure 4; column 3, lines 42-65). Regarding claim 2, the method further includes the step of bringing together adjacent regions of the hairpiece and the lock to be joined (see Figure 4; column 4, lines 25-35). Regarding claim 3, the adhesive is pre-applied to an end region of the hairpiece (see Figure 2; column 3, lines 62-70).

Regarding claim 4, the method includes the step of clamping adjacent regions of the hairpieces and the lock with a tool (see Figure 5; column 4, lines 38-50). Barrington does not disclose the tool exposing the adhesive to electromagnetic radiation and the adhesive being curable by electromagnetic radiation.

Mack et al. teaches a hair iron that uses electromagnetic radiation to achieve uniform heating (column 1, lines 45-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool of Barrington to have the tool use electromagnetic radiation as taught by Mack et al. in order to apply uniform heating to the device. It further would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adhesive be curable by electromagnetic radiation, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrington (US 5,107,867) in view of Gazaway (US 6,061,912).

Barrington discloses a hairpiece comprising an adhesive material provided on a bonding region. Barrington does not disclose the adhesive material being electromagnetically curable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adhesive be curable by electromagnetic radiation, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended

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use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Further Gazaway teaches the device as claimed in claim 7.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have any of these components available at the same time, e.g. as in a “kit”, such as extending a user’s hair. In other words, the individual components of applicant’s kit are already available as prior art; merely combining the components under the rubric of a “kit” does not result in a novel invention, even taken as a whole. It is contemplated that the user or any other hair care professional can meet applicant’s claimed invention by simply purchasing the Barrington and Gazaway components and placing these components in proximity to each other, so as to fall under the rubric of a kit.

Here, the novelty of the invention must reside in its whole, i.e. the kit, being greater than the sum of its parts, since the parts or components of the invention are already known in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL A. RUNNING whose telephone number is (571)272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/
Primary Examiner, Art Unit 3732

/Rachel A. Running/
Examiner
Art Unit 3732

8/7/2008